

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

BOB K. LUONG, an individual,

Plaintiff,

v.

SUPER MICRO COMPUTER, INC., a  
Delaware Corporation, and CHARLES LIANG,  
an individual,

Defendants.

Case No. 5:24-cv-02440-NW

ASSIGNED FOR ALL PURPOSES TO THE HON. NOËL  
WISE, COURTROOM 3

~~[PROPOSED]~~ **STIPULATED ORDER RE:  
DISCOVERY OF ELECTRONICALLY  
STORED INFORMATION FOR  
STANDARD LITIGATION  
AS MODIFIED BY THE COURT**

Complaint Filed: April 24, 2024  
1AC Filed: May 6, 2024  
2AC Filed: December 16, 2024  
Trial Date: September 21, 2026

1 **1. PURPOSE**

2 This Order will govern discovery of electronically stored information (“ESI”) in this case as  
3 a supplement to the Federal Rules of Civil Procedure, this Court’s Guidelines for the Discovery of  
4 Electronically Stored Information, and any other applicable orders and rules.

5 **2. COOPERATION**

6 The parties are aware of the importance the Court places on cooperation and commit to  
7 cooperate in good faith throughout the matter consistent with this Court’s Guidelines for the  
8 Discovery of ESI.

9 **3. LIAISON**

10 The parties have identified liaisons to each other who are and will be knowledgeable about  
11 and responsible for discussing their respective ESI. Each e-discovery liaison will be, or have access  
12 to those who are, knowledgeable about the technical aspects of e-discovery, including the location,  
13 nature, accessibility, format, collection, search methodologies, and production of ESI in this matter.  
14 The parties will rely on the liaisons, as needed, to confer about ESI and to help resolve disputes  
15 without court intervention. Plaintiff’s ESI liaison is Ally Girouard. Defendants’ ESI liaison is: Bart  
16 Jordan.

17 **4. PRESERVATION**

18 The parties have discussed their preservation obligations and needs and agree that  
19 preservation of potentially relevant ESI will be reasonable and proportionate. To reduce the costs  
20 and burdens of preservation and to ensure proper ESI is preserved, the parties agree that:

21 a) Only ESI created or received from August 25, 2019, to the present will be preserved,  
22 with the exception of Plaintiff’s personnel file and any documents related to his job performance,  
23 which will be preserved from the beginning of Plaintiff’s employment to the present;

24 b) The parties will exchange a list of the types of ESI they believe should be preserved  
25 and the custodians, or general job titles or descriptions of custodians, for whom they believe ESI  
26 should be preserved, e.g., “HR head,” “scientist,” and “marketing manager.” The parties shall add  
27 or remove custodians as reasonably necessary;  
28

c) The parties will agree on the number of custodians per party for whom ESI will be preserved;

d) The parties are looking into which data sources are not reasonably accessible because of undue burden or cost pursuant to Fed. R. Civ. P. 26(b)(2)(B), if any, and will disclose those data sources once they are identified. ESI from these sources will be preserved but not searched, reviewed, or produced;

e) Among the sources of data the parties agree are not reasonably accessible, the parties agree not to preserve the following: [e.g., backup media created before August 25, 2019 , automatically saved versions of documents];

f) The parties are looking into whether there are any sources of data that (a) could contain relevant information but (b) under the proportionality factors, should not be preserved, and will disclose those data sources, if any, once they are identified.

## 5. SEARCH

The parties agree that in responding to an initial Fed. R. Civ. P. 34 request, or earlier if appropriate, they will meet and confer about methods to search ESI in order to identify ESI that is subject to production in discovery and filter out ESI that is not subject to discovery.

## 6. PRODUCTION FORMATS

The parties agree to produce documents in PDF, and, when necessary for the proper display of the document (*i.e.*, Excel files), native file formats. For the production of electronic communications, the parties agree to provide a load file containing metadata of the original document (e.g., to/from/cc fields, date sent, email subject, etc.). If particular documents warrant a different format, the parties will cooperate to arrange for the mutually acceptable production of such documents. The parties agree not to degrade the searchability of documents as part of the document production process.

## 7. PHASING

When a party propounds discovery requests pursuant to Fed. R. Civ. P. 34, the parties agree to phase the production of ESI, when useful to facilitate more expeditious production of some

1 materials, including through rolling productions. For email productions, each party shall rank their  
 2 proposed custodians in order of priority, and the initial production will be from the highest priority  
 3 source and custodian, to the extent reasonably practicable. Following the initial production, parties  
 4 will continue to work through subsequent productions in rank order (e.g., the second production will  
 5 consist of emails from the second-ranked custodian) to the extent reasonably practicable.

## 6 **8. DOCUMENTS PROTECTED FROM DISCOVERY**

7 a) Pursuant to Fed. R. Evid. 502(d), the production of a privileged or work-product-  
 8 protected document, whether inadvertent or otherwise, is not a waiver of privilege or protection  
 9 from discovery in this case or in any other federal or state proceeding. For example, the mere  
 10 production of privileged or work-product-protected documents in this case as part of a mass  
 11 production is not itself a waiver in this case or in any other federal or state proceeding. Any party  
 12 that discloses or produces information that it considers privileged or otherwise protected from  
 13 discovery will give written notice to the receiving party identifying the information in question, the  
 14 asserted privilege or protection, and the grounds therefor. Upon receipt of notice of the assertion of  
 15 privilege or protection over produced information, the receiving party will destroy all copies of the  
 16 information in its possession and notify the producing party as to whether it contests the assertion  
 17 of privilege or protection. In the event of a contested assertion of privilege or protection over  
 18 produced documents that cannot be resolved amicably after meeting and conferring in good faith,  
 19 either party may bring the contest to the attention of the Court by ~~motion~~ **filing a joint statement in**  
 20 **accordance with Judge van Keulen's Civil and Discovery Referral Matters Standing Order.**

21 b) The parties have agreed upon a “quick peek” process pursuant to Fed. R. Civ. P.  
 22 26(b)(5) and reserve rights to assert privilege as follows: Any party that receives privileged  
 23 information must promptly destroy all copies of the information and may not use or disclose the  
 24 privileged information for any purpose. If the privileged nature of the information is disputed, the  
 25 **Parties will present the issue to the Court in accordance with Judge van Keulen's Standing Order.**  
 26 ~~party that received the privileged information may, after destroying all copies of the information in~~  
 27 ~~its possession, ask the Judge (or, if a Magistrate Judge has been assigned, the assigned Magistrate~~  
 28 ~~Judge) for an informal discovery conference at which the party that produced the privileged~~  
~~information shall present that information so that the Magistrate Judge may determine whether it is~~

~~privileged, in whole or in part, and may order its production if the material is not privileged or may order partial production if the material is only partially privileged.~~

c) Communications involving trial counsel of record need not be placed on a privilege log. Communications may be identified on a privilege log by category, rather than individually, if appropriate. Only ESI will be preserved as specified in Section 4, *supra*;

## **9. MODIFICATION**

This Stipulated Order may be modified by a Stipulation of the parties approved by the Court or by the Court for good cause shown.

**IT IS SO STIPULATED**, through Counsel of Record.

Dated: September xx, 2025

RUTAN & TUCKER, LLP

By: \_\_\_\_\_

Hope Anne Case  
Attorneys for Defendants  
SUPER MICRO COMPUTER, INC. and  
CHARLES LIANG

Dated: September xx, 2025

GOMERMAN, BOURN & ASSOCIATES

By: \_\_\_\_\_

Tanya Gomerman  
Attorneys for Plaintiff  
BOB LUONG

**IT IS SO ORDERED** that the foregoing Agreement is approved.

Dated: September 12, 2025



Susan van Keulen  
United States Magistrate Judge